

PLANNING COMMISSION MINUTES

AUGUST 3, 2006

NEW BUSINESS:

Public Hearing and Consideration of Cases

DOCKET NO. 9-24-06W

Change in zoning from R-7 Multi-Family Residential to C-1 Commercial on property located at 1100 Dixie Highway (Tax Block 38F, Lot Number 181), and a request for site design/transition waivers, containing .091 acres and being in Louisville Metro.

Project Name:	Grocery
Owner/applicant:	Alice Lou Fink 4803 S. Sixth Street Louisville, Kentucky 40214
Attorney:	Kathy R. Matheny 9009 Preston Highway Louisville, Kentucky 40219
Existing Use:	Grocery
Proposed Use:	Grocery
Form District:	Traditional Marketplace Corridor
Council District:	4 – David Tandy
Staff Case Manager:	Kristen Millwood, Planner II

Notice of this public hearing appeared in The Courier Journal on July 13, 2006, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

The following spoke in favor of this request:

Kathy Matheny, 9009 Preston Highway, Louisville, Kentucky 40219; who submitted a booklet with various pictures and exhibits.

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The following spoke in opposition:

No one.

SUMMARY OF TESTIMONY OF PROPONENTS:

Kathryn R. Matheny, counsel for the applicant/property owner, presented an exhibit book that she said evidenced compliance with all applicable guidelines and policies of the Cornerstone 2020 Comprehensive Plan.

The first exhibits, she explained, were zoning and land use maps of the area which showed the grid pattern of the area and the surrounding zoning designations in the area and that the site was located a Traditional Marketplace Corridor adjacent to a Traditional Neighborhood. She also said that this Form District is appropriate for the proposed use.

Ms. Matheny discussed photographs in the exhibit books of the existing site, the location of the proposed building on the rear of the lot and the surrounding homes and businesses.

Ms. Matheny's exhibit book also contained a copy of the site plan and an elevation view of all four sides of the new building. The site plan and the elevations show additional landscaping to buffer the building from the streetscape of Grand Avenue.

The need for various waivers for the proposal was also reviewed. The waivers include a rear landscape buffer which is difficult to place due to the size of the lot. Also four other waivers of Chapter 5 requirements are needed due to the architectural design of the proposed new building which is to house a cold storage unit.

A letter from the neighbor across the alley from the site was submitted to show he had no objections to these plans. Additionally, several neighbors signed a petition stating they approved of this zoning change and also noting their mode of transportation to the store which was primarily walking.

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The Commissioner asked a few questions about the buffering and fence between the store and the neighbors to the south.

A discussion was also held on the need for any additional binding elements including a requirement for a public review of any change in uses. It was agreed that the binding element in regards to ABC licenses was sufficient to meet these concerns.

SUMMARY OF TESTIMONY OF OPPONENTS:

No one spoke in opposition.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the cd of the August 3, 2006 public hearing proceedings.

In a business session subsequent to the public hearing on this request, the Commission took the following action.

On a motion by Commissioner Carlson, the following resolution was unanimously adopted:

WHEREAS, The Commission finds that based upon testimony and evidence submitted during the public hearing, Land Development and Transportation Committee review, the staff report and the file of the case that the application to rezone an existing grocery store and add a new rear building on an existing lot conforms with Community Form Area Guideline 1, because the site is located on a corner lot on a grid system with alleys which is an appropriate location for a small business in a Traditional Marketplace Corridor, its buildings' size and shape are consistent with the other buildings on the street making it compatible with the neighborhood, it is in a developed neighborhood in need of revitalization and neighborhood serving shop providing an additional investment into this community consistent with the goals of a Traditional Marketplace Corridor and makes the requested zoning designation appropriate under Guideline 1, Policy B.7; and

WHEREAS, the Commission finds that the application complies with the intent and the policies of Guideline 2, because the store's placement is at a corner in a compact area which is in an already developed and populated area, the store's

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placement is of an appropriate size and intensity for the area, the store's location allows for a business to serve the day to day needs of the neighborhood thereby promoting alternative transportation modes including walking trips, the store is an existing commercial business that is being rehabilitated and improved, all making the requested zoning designation appropriate under Guideline 2, Policies 1, 2, 3, 4, 7 and 8; and

WHEREAS, the Commission finds that the application complies with the intent and the policies of Guideline 3, because this is an existing commercial business which is compatible with the neighboring uses in that no discernible changes to the appearance of the neighborhood will occur by this project and the streetscape on Dixie Highway will remain the same and the use is of low impact and is a service to the neighborhood; and the proposed new 750 square foot building is small, made of materials used in the vicinity and is basically the same shape of a garage and will be properly buffered by the proposed privacy fence on the south side and the proposed additional landscaping along Grant Avenue which will screen the new building and loading area from the street and makes this building compatible with the residential look of Grand Avenue consistent with Guideline 3, Policies 1, 2, 4, 9, 21 and 23. Further, the new landscaping to be added will provide the necessary buffering of this project from the neighboring homes in compliance with Guideline 3, Policies 22 and 24; and

WHEREAS, the Commission finds that the application conforms with the intent of Guidelines 4 and 5 in that its size and location does not require open space nor is it in an area that has been identified as a natural or historic resource requiring preservation, having special districts or an area with soil and or steep slope issues; and

WHEREAS, the Commission finds that the application conforms to the policies of Guideline 6 in that the proposal is an investment in a downtown neighborhood by the maintenance and expansion of a viable existing corner market in a developed neighborhood promoting economic growth in an area already served by existing public services and infrastructure such as water, sewer and electrical services thus reducing the cost of land development as desired by Guideline 6, Policies 3, 5 and 11; and

WHEREAS, the Commission finds that the application provides adequate parking and connections for the size and location of the lot and the site is in an urban area with pedestrian traffic as is appropriate and envisioned in a traditional marketplace corridor, therefore complying with the intent and the policies of Guideline 7; and

WHEREAS, the Commission finds that the application meets the intent and the policies of Guideline 9 because the site plan provides for appropriate circulation

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and safe and efficient ingress to and egress from the rear loading area, the site plan has adequate buffering to protect the streetscape, the plan allows for adequate on street parking, the site is located near a TARC stop consistent with Guideline 9, Policy 2 and does not impact any environmentally sensitive areas or scenic corridors; and

WHEREAS, the Commission finds that the application complies with the intent and policies of Guidelines 10 and 11 because it is an existing site and no portion of the property to be disturbed is within a floodplain or a blue line stream; and

WHEREAS, the Commission finds that the application complies with the intent and the policies of Guideline 12, because this type of infill project will work to decrease vehicular miles traveled because the development is served by a TARC transit stop within 200 feet of its entrance and is in a pedestrian friendly neighborhood with available sidewalks; and

WHEREAS, the Commission finds that the application complies with the policies of Guideline 13 in that the site plan proposes to enhance the tree canopy for the site and the new landscaping proposed will enhance the landscape design around the new building and loading area; and

WHEREAS, the Commission finds that the application conforms to the policies of Guideline 14 because it is an in-fill project and all necessary utilities are available nearby and will be connected via existing facilities; and

WHEREAS, the Commission finds that based on all foregoing, the proposal to rezone to C-1 to serve as a neighborhood grocery and build a new building to serve that business will enhance this Traditional Market Place Corridor; and

WHEREAS, The Commission finds that the proposal has received preliminary approval from Louisville Metro Transportation and the Metropolitan Sewer District; and

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of the Louisville/Jefferson County Metro Government that the change in zoning **from R-7 Multi-Family Residential to C-1 commercial** on property described in the attached legal description be **APPROVED**.

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The vote was as follows:

YES: Commissioners Hamilton, Abstain, Adkins, Jones, Ernst, Blake, Carlson, Queenan, Wells-Hatfield and Howard.

NO: No one.

NOT PRESENT FOR THIS CASE: No one.

ABSTAINING: No one.

DETAILED DISTRICT DEVELOPMENT PLAN

On a motion by Commissioner Wells-Hatfield, the following resolution was unanimously adopted:

RESOLVED, That the Louisville Metro Planning Commission does hereby **APPROVE** the district development plan **SUBJECT** to the following binding elements:

Binding Elements unique to this site – Docket# 9-24-06W

1. The site will not apply for an ABC license.
 2. The landscape plan will include evergreen plantings in the LBA between the VUA and the right-of-way of Grand Avenue that will reach a height tall enough to screen the loading area from the right-of-way.
 3. The landscape plan will include columnar shrubs or evergreen trees along the north side of the new building along the building side wall to provide screening along the right-of-way of Grand Avenue.
-
1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
 2. The development shall not exceed 1,958 square feet of gross floor area.

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3. Signs shall be in accordance with Chapter 8.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors,

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subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 3, 2006 Planning Commission meeting.
10. No idling of trucks shall take place within 200 feet of single-family residences.

No overnight idling of trucks shall be permitted on-site.

11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
12. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan.

All plans setting out tree preservation areas must contain the following notes:

1. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.

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2. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
3. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.
4. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.
5. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.

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The vote was as follows:

YES: Commissioners Hamilton, Abstain, Adkins, Jones, Ernst, Blake, Carlson, Queenan, Wells-Hatfield and Howard.

NO: No one.

NOT PRESENT FOR THIS CASE: No one.

ABSTAINING: No one.

WAIVERS:

On a motion by Commissioner Wells-Hatfield, the following resolution was unanimously adopted:

WHEREAS, the Commission finds that the applicant has requested waivers to waive the requirements of Land Development Code (LDC)

1) waiver of Chapter 5.6.1.A.1 to allow a blank wall to face a public street 2) a waiver of Chapter 5.7.1.B.3.b to not meet primary façade standards in the transition zone on the west façade that faces the alley, 3) a waiver of Chapter 5.5.1.A.6 to allow the secondary structure to not have the same architectural details, design elements, building materials and roof design as the primary and 4) a waiver of Chapter 5.6.1.C.1 for window design; and

WHEREAS, the Commission finds that the site houses an existing building for a long-standing neighborhood grocery business and this proposal is to add a 750-square foot structure for cold storage so that the business can improve by selling more items including fresh produce and frozen convenience items. The store does not have a liquor license and has proposed a binding element stating that they will not apply for one. The storage is only for the retail use on this site and will not generate noise or noxious odors. The design is compatible with the other building materials in the neighborhood and by the use of landscape screening it will not impact the streetscape of the area; and

WHEREAS, the Commission finds that the waivers will not violate specific guidelines of Cornerstone 2020 as part of the intent of the design guidelines is to provide standards for screening and architecture to ensure new uses are compatible with existing neighborhoods. This lot has size constraints but the proposed use is designed with building materials that match the area and will

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blend in (the vinyl siding will help it to mimic a garage look) and will use landscaping along the street side to enhance the streetscape in the area; and

WHEREAS, the Commission finds that the extent of the waivers are the minimum necessary to afford relief to the applicant as the design fits the size and shape of the lot which is a small, narrow urban lot on an alley grid system, so the new building must be accessed at the rear. The existing building is cinderblock and does not have any architectural features to match the second building. The transition area will be handled by landscaping rather than architectural design; and

WHEREAS, the Commission finds that the applicant's design incorporates additional landscaping to screen the second building from the street. The plan and design will keep a residential look along this side of the street but using landscaping to screen this new building which is garage-like in appearance. This small site will have new landscaping and exceed its tree canopy requirement. Additionally, the use is neighborhood-serving; now, therefore, be it

RESOLVED, That the Louisville Metro Planning Commission does hereby **GRANT** the requested waivers of Chapter 5.6.1.A.1 of 5.7.1.B.3.b of 5.5.1.A.6 and 5.6.1.C.1, filed in Docket No. 9-24-06W.

The vote was as follows:

YES: Commissioners Hamilton, Abstain, Adkins, Jones, Ernst, Blake, Carlson, Queenan, Wells-Hatfield and Howard.

NO: No one.

NOT PRESENT FOR THIS CASE: No one.

ABSTAINING: No one.

Cestaro, Chris

From: Kathryn Matheny [kmatheny@insightbb.com]

Sent: Friday, August 18, 2006 1:46 PM

To: chris.cestaro@louky.gov; Cestaro, Chris

Legal Description for 1100 Dixie Highway

Beginning at the Southwest corner of 18th Street, and Grand Avenue; thence Southwardly along the West line of 18th Street, 25 feet 4 inches; thence Westwardly and parallel with Grand Avenue, 65 feet; thence Northwardly and parallel with 19th Street 25 feet 4 inches to the South line of Grand Avenue; thence Eastwardly along the South line of Grand Avenue, 65 feet to the point of beginning, and being the same property recorded in Deed Book 8467 Page 644 in the Jefferson County Courthouse.

Planning Commission Staff Report
August 3, 2006



Case:	9-24-06W, Change in zoning from R-7 Multi-Family Residential to C-1 Commercial on property located at 1100 Dixie Highway (Tax Block 38F, Lot Number 181), containing .091 acres and being in Louisville Metro.
Project Name:	Grocery Store
Location:	1100 Dixie Highway
Owner(s):	Alice Lou Fink
Applicant:	Alice Lou Fink
Representative:	Kathy Matheny
Project Size/Area:	.091 acres
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Kristen Millwood, Planner II

Request

Change in zoning from R-7 Multi-family Residential to C-1 Commercial.

Staff Recommendation

Staff recommends approval of the proposal, including the three binding elements unique to this case proposed by the applicant.

Case Summary / Background

Summary

The applicant requests to re-zone the subject parcel from R-7 to C-1 to allow a one-story, 750 square-foot (s.f.) cold storage building to be built in the rear of a lot for a grocery store. There is an existing one-story 1,208 s.f. non-conforming grocery store on site. The cold storage would give the grocery store more floor area. The grocery does not have an ABC license. The store sells a variety of beverages, fresh produce and frozen convenience products. The storage building would only store items for this store. There is a set of steps at the rear of the grocery that lead down to a small concrete sidewalk and retaining wall that is proposed to remain. A 296 s.f. awning is proposed at the rear of the grocery. The cold storage building would be situated beyond the sidewalk area at the rear of the property. Access to the storage building is from the alley.

There is an eight-foot wood fence proposed along the south property line and some landscaping proposed along the loading area to the north. The building

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materials of the storage building will match the material of the adjacent structures which are primarily wood or vinyl sided. Windows are not proposed. There is on-street parking only. The applicant is also taking advantage of a one-space reduction due to the proximity of a TARC stop. Delivery trucks will use the new delivery area in the rear of the store. The store hours will remain the same (9:00 a.m. to 9:00 p.m.). The store has minimal outside lighting consistent with lighting on residential buildings and all fixtures will be faced downward. There are attached signs only on the grocery store and no new signs are proposed.

The applicant proposes three new binding elements in response to the Site Inspection Committee report:

1. The site will not apply for an ABC license.
2. The landscape plan will include evergreen plantings in the LBA between the VUA and the right-of-way of Grand Avenue that will reach a height tall enough to screen the loading area from the right-of-way.
3. The landscape plan will include columnar shrubs or evergreen trees along the north side of the new building along the building side wall to provide screening along the right-of-way of Grand Avenue.

Site Context

This site is located off of Dixie Highway approximately across the street from St. Catherine. It is at the corner of Dixie Highway and Grand Avenue. It is in a transition zone with the Traditional Neighborhood Form District.

Land Use / Zoning District / Form District

	Land Use	Zoning	Form District
Subject			
Existing	Grocery Store	R-7	Traditional Marketplace Corridor
Proposed	Grocery Store	C-1	Traditional Marketplace Corridor
Surrounding			
North	Single-family residential	R-7	Traditional Marketplace Corridor
South	Single-family residential	R-7	Traditional Marketplace Corridor
East	Dixie Highway R-O-W	C-2	Traditional Marketplace Corridor
West	Single-family residential	R-5	Traditional Neighborhood

Background

There have been no previous zoning actions on this site.

Project History

Project History	Date	Issues addressed / discussion / changes to proposal
Pre-app review	2/24/06	
Project submittal	5/18/06	

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LD&T review	6/8/06	
Revision submittal #1	6/22/06	
PC review	8/3/06	

Note: The following information represents staff analysis of the subject property with respect to site inspection/observation, sound planning practices, and adopted policies and regulations of the jurisdiction. Materials submitted by the applicant or their representative prior to the deadline for filing information related to cases docketed for this hearing were reviewed and specifically applied in the staff review of this request. The board is advised to consider this staff report as well as new information introduced at the hearing in formulating their decision.

Site Inspection Comments & Responses

1. Size of storage building appears large in comparison to existing store
2. Development should be sensitive to neighborhood – *The site will not apply for an ABC license; see proposed binding element*
3. North side of property needs landscaping along street – *See proposed binding elements*
4. Land use appears to be suitable

Staff Findings

1. The 15-foot LBA to the south has not been met but the applicant is using the alternative standard of a fence and landscaping (allowed by this form district).
2. More information is needed on the proposed screening for the loading area and storage building.
3. The binding elements the applicant proposes are appropriate.

Relationship to the Comprehensive Plan – Cornerstone 2020 Plan Elements:

Community Form, Marketplace & Compatibility – the site houses an existing building for a long-standing neighborhood grocery business and this proposal is to add a 750-square foot structure for cold storage so that the business can improve by selling more items including fresh produce and frozen convenience items. The store does not have a liquor license and has proposed a binding element stating that they will not apply for one. The storage is only for the retail use on this site and will not generate noise or noxious odors. The design is compatible with the other building materials in the neighborhood and by the use of landscape screening it will not impact the streetscape of the area. The proposed use is designed with building materials that match the area and will blend in (the vinyl siding will help it to mimic a garage look) and will use landscaping along the street side to enhance the streetscape in the area.

Mobility/Transportation – complies with guidelines and takes advantage of nearby TARC stop and on-street parking.

Livability/Environment – This is a small addition on a site that does not have environmental features. Landscaping will be added.

Relationship to Neighborhood, Small Area, Corridor or Other Plans
None.

Standard of Review

Criteria for granting the proposed rezoning:

1. The proposed rezoning complies with the applicable guidelines and policies Cornerstone 2020; **or**
2. The existing zoning classification is inappropriate and the proposed classification is appropriate; **or**
3. There have been major changes of an economic, physical, or social nature within the area involved, which were not anticipated in Cornerstone 2020, which have substantially altered the basic character of the area.

Criteria for approving waiver:

1. The waiver will not adversely affect adjacent property owners; **and**
2. The waiver will not violate specific guidelines of Cornerstone 2020; **and**
3. The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; **and**
4. Either:
 1. The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); **or**
 2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

Technical Review

1. There is a building design waiver of Chapter 5.6.1.A.1 (there shall be no blank walls facing public streets).
2. This site needs to meet either a 25-foot transition zone buffer or the proposed structure needs to meet primary façade standards but does not meet either requirement. The applicant has chosen to apply for a waiver for the latter (Chapter 5.7.1.B.3.b). This is for the west façade of the proposed building that would face the alley.
3. There is a waiver of Chapter 5.5.1.A.6 (secondary structures shall have same architectural details, design elements, building materials and roof

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design as primary) as well as a waiver of Chapter 5.6.1.C.1 for window design.

4. Findings for the requested waivers are made together in the following section rather than individually as they all deal with design issues.

Waivers

Building and site design/transition standards waivers

The applicant requests a waiver of Chapter 5.6.1.A.1. of 5.7.1.B.3.b of 5.5.1.A.6 and 5.6.1.C.1.

Criteria for approving waivers:

1. **The waivers will not adversely affect adjacent property owners; and**

Staff: The requested waivers will not adversely affect adjacent property owners as the site houses an existing building for a long-standing neighborhood grocery business and this proposal is to add a 750-square foot structure for cold storage so that the business can improve by selling more items including fresh produce and frozen convenience items. The store does not have a liquor license and has proposed a binding element stating that they will not apply for one. The storage is only for the retail use on this site and will not generate noise or noxious odors. The design is compatible with the other building materials in the neighborhood and by the use of landscape screening it will not impact the streetscape of the area.

2. **The waivers will not violate specific guidelines of Cornerstone 2020; and**

Staff: The waivers will not violate specific guidelines of Cornerstone 2020 as part of the intent of the design guidelines is to provide standards for screening and architecture to ensure new uses are compatible with existing neighborhoods. This lot has size constraints but the proposed use is designed with building materials that match the area and will blend in (the vinyl siding will help it to mimic a garage look) and will use landscaping along the street side to enhance the streetscape in the area.

3. **The extent of the waivers of the regulation is the minimum necessary to afford relief to the applicant; and**

Staff: The extent of the waivers is the minimum necessary to afford relief to the applicant as the design fits the size and shape of the lot which is a small, narrow urban lot on an alley grid system, so the new building must be accessed at the rear. The existing building is cinderblock and does not have any architectural features to match the second building. The transition area will be handled by landscaping rather than architectural design.

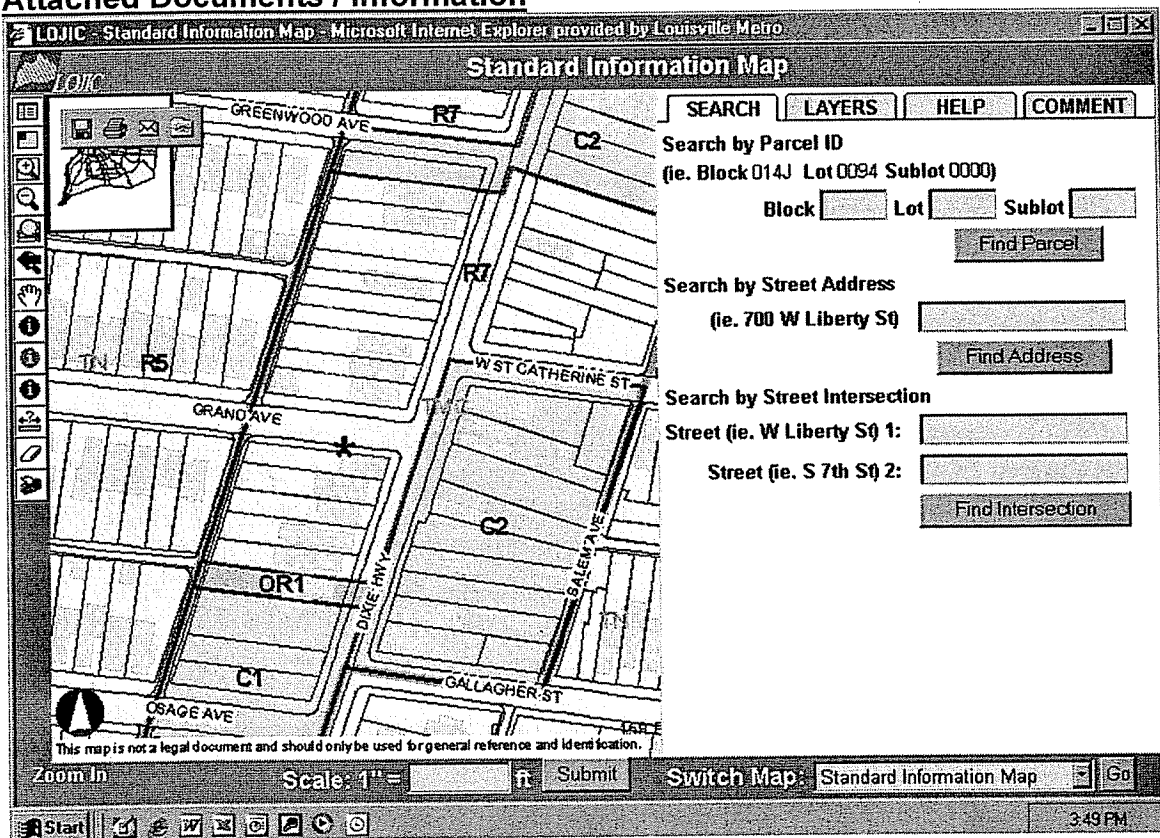
4. **Either:**

The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); or

Staff: The applicant's design incorporates additional landscaping to screen the second building from the street. The plan and design will keep a residential look along this side of the street bus using landscaping to screen this new building which is garage-like in appearance. This small site will have new landscaping and exceed its tree canopy requirement. Additionally, the use is neighborhood-serving.

The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

Attached Documents / Information



Notification

The following forms of notification were provided pertaining to this proposal:

Notification

Date	Description	Recipients
6/30/06	Notice of Planning	Adjoining property owners

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	Commission hearing	and neighborhood group listing.
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All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

Proposed Binding Elements – Docket #9-24-06W (unique to this case)

1. The site will not apply for an ABC license.
2. The landscape plan will include evergreen plantings in the LBA between the VUA and the right-of-way of Grand Avenue that will reach a height tall enough to screen the loading area from the right-of-way.
3. The landscape plan will include columnar shrubs or evergreen trees along the north side of the new building along the building side wall to provide screening along the right-of-way of Grand Avenue.

Proposed Standard Binding Elements - Docket #9-24-06W

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 1,958 square feet of gross floor area.
3. Signs shall be in accordance with Chapter 8.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.

- c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
- 6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
- 7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
- 8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
- 9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 3, 2006 Planning Commission meeting.
- 10. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
- 11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

12. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan.

All plans setting out tree preservation areas must contain the following notes:

1. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.
2. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
3. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.
4. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.
5. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height

Hearing date: 8/3/06

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of four and one-half feet above ground level shall be removed
without prior approval by DPDS.

The above binding elements of the district development plan are agreed to by the
property owner _____, 2006.

OWNER OR OWNER'S AUTHORIZED REPRESENTATIVE

**All binding elements and/or conditions of approval stated in this report are
accepted in total without exception by the entity requesting approval of this
(these) development item(s).**

Name

Title

Date



MAY 18 2006

Pre-App Tax Map



Proposed Grocery Store with Storage Building
 1100 Dixie Hwy.
 R-7 to C-1
 Zoning Pre-App 05-06

200' 0'

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9-24-06w

Binding Elements for Docket No. 9-24-06W

RESOLVED, That the Louisville Metro Planning Commission does hereby **APPROVE** the district development plan **SUBJECT** to the following binding elements:

Binding Elements unique to this site – Docket# 9-24-06W

1. The site will not apply for an ABC license.
2. The landscape plan will include evergreen plantings in the LBA between the VUA and the right-of-way of Grand Avenue that will reach a height tall enough to screen the loading area from the right-of-way.
3. The landscape plan will include columnar shrubs or evergreen trees along the north side of the new building along the building side wall to provide screening along the right-of-way of Grand Avenue.
3. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
4. The development shall not exceed 1,958 square feet of gross floor area.
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 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
8. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

9. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
10. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
11. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 3, 2006 Planning Commission meeting.
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13. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
14. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan.

All plans setting out tree preservation areas must contain the following notes:

1. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.
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